

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Assess and Revise  
the New Regulatory Framework for Pacific Bell  
and Verizon California Incorporated.

Rulemaking 01-09-001  
(Filed September 6, 2001)

Order Instituting Investigation on the  
Commission's Own Motion to Assess and Revise  
the New Regulatory Framework for Pacific Bell  
and Verizon California Incorporated.

Investigation 01-09-002  
(Filed September 6, 2001)

**ASSIGNED COMMISSIONER'S RULING**

Decision (D.) 04-09-061 was adopted on September 23, 2004. I have determined that two matters are appropriate for modification in that decision. Attached is a draft opinion that would modify D.04-09-061 on the Commission's own motion.

Pursuant to Section 1708 of the Public Utilities Code, this draft is being sent out for party comment in advance of it being submitted to the Commission. Parties desiring to comment on this modification proposal shall file and serve opening comments within 15 days of this ruling. Reply comments shall be filed and served within 25 days of this ruling.

Following the receipt of comments I anticipate placing an opinion before my colleagues at a regularly scheduled Commission meeting addressing the proposed modifications. Unless the opinion put forward differs significantly from that which is being sent out today for comment, it will not be put out for

comment again as a proposed agenda item. Therefore, parties should comment on the attached draft on the premise that this may be the only comment opportunity they will have as to the modifications proposed.

Therefore, **IT IS RULED** that:

1. Pursuant to Public Utilities Code Section 1708, I propose to put before the Commission a decision modifying Decision 04-09-061, which is attached to this ruling.

2. Parties desiring to comment on these proposed modifications shall file and serve opening comments on the attachment to this ruling within 15 days of this ruling and reply comments within 25 days of this ruling.

3. Unless significantly changed following the receipt of comments, the draft will not be put out for comment again prior to being placed on a regularly scheduled Commission meeting agenda.

Dated December 13, 2004, at San Francisco.

/s/ SUSAN P. KENNEDY

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Susan P. Kennedy  
Assigned Commissioner

## ATTACHMENT A

Decision \_\_\_\_\_

### BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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### OPINION MODIFYING PHASE 2B AUDIT DECISION 04-09-061

The Commission adopted Decision (D.) 04-09-061 on September 23, 2004, concluding the Phase 2B portion of the Commission's audit of Pacific Bell Telephone Company (Pacific). It has been determined that two matters require modification. One concerns inadequate property records for plant in service and the second issue concerns clarification of the scope and timing of the next audit.

#### Regarding Property Records

Pacific created accounting entries based on its own judgment of what asset values should have been for property where it had no records to support their existence. Further, Pacific had records for plant that did not exist.

D.04-09-061 does not disagree with the auditors' conclusions that Pacific had problems with its property records. However, the decision does not identify this

issue as a problem that needs correction. As a general matter, the issue of inaccuracies in property records is a problem because it can mean that rate base and expenses are not accurate and may be inflated. The decision suggests that the burden of proof was on Overland to challenge Pacific's adjustments. Instead, we clarify that the burden of proof is Pacific's. We revise D.04-09-061, on pages 52-53, to read as follows:

Overland concluded that Pacific's reverse retirement entries unreasonably increased intrastate depreciation expense by \$5.5 million on an intrastate pre-tax basis during the audit period. Overland believed that there was a more plausible explanation for the presence of unrecorded plant than that Pacific simply failed to account for it when acquired. Rather, Overland explained that Pacific either charged the equipment to expense when it was originally acquired or booked it with other continuing property record items. According to Overland, it was also inappropriate for Pacific to record depreciation expense on the "reverse-retired assets" when Pacific could not show that it incurred any costs for these assets. We find that because Pacific cannot document the costs of the assets, Pacific's reverse retirement entries cannot be sustained.

Therefore, we adopt all audit recommendations with regard to Pacific's property records. The intrastate regulatory after-tax audit adjustment of \$5.9 million in 1997 and \$4.2 million in 1998 for the SAVR delayed retirements and \$272,000 in 1997, \$615,000 in 1998 and \$2.3 million in 1999 for the SAVR reverse retirements are adopted as shown in Appendix A. We also agree with the audit's conclusion that Pacific exhibits problems with plant internal controls. The parties should address how to remedy these problems in Phase 3B.

#### **Clarification of SBC-California's Next Audit**

D.04-09-061 directs the Office of Ratepayer Advocates (ORA) to conduct an audit for years 2000-2003, including the examination of monitoring reports filed with the Commission pursuant to the New Regulatory Framework (NRF). The

intent of D.04-06-061 is to follow the audit procedures established for Verizon California, Inc. Further, given that ORA will likely initiate its audit of SBC California (SBC) in year 2005, we direct ORA to audit an additional year, so that its audit covers the period 2000 through 2004. We revise D.04-09-061, on pages 131-132, to read as follows:

Following this precedent, ORA shall immediately commence a comprehensive audit of SBC covering the years 2000 through 2004. The audit shall include (i) an examination of monitoring reports that SBC submitted to the Commission under the NRF, including reports pertaining to service quality and any information submitted to the FCC pertaining to California operations, (ii) examination of infrastructure investments and expenses assigned to regulated and unregulated activities, (iii) an investigation of affiliate transactions, and (iv) the revenues and expenses associated with SBC's Directory Affiliate. ORA shall modify the scope of the audit, as appropriate, in response to developments in Phase 3 of this proceeding.

### **Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and Sarah R. Thomas is the assigned Administrative Law Judge in this proceeding.

### **Comments on Proposed Decision**

The proposed decision of \_\_\_\_\_ in this matter was mailed to the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_.

### **Finding of Fact**

1. The responsibility (and corresponding burden of proof) to maintain accurate property records lies with Pacific.
2. Due to the anticipated start of the audit of Pacific in 2005, 2004 should be included within the audit report.

**Conclusion of Law**

1. It is reasonable to modify the decision as shown in the body of this order.

**O R D E R**

**IT IS ORDERED** that Decision 04-09-061 shall be modified as set forth in the body of this decision.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

(End of Attachment A)

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated December 13, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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